

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

JAMES W. McQUEEN,)
v. Plaintiff,)) No. 08-0563-CV-W-FJG-SSA
MICHAEL J. ASTRUE,)
Commissioner, Social Security)
Administration)
Defendant.)

ORDER

This action is a proceeding for disability insurance benefits under Title II of the Act, 42 U.S.C. §§ 401, et seq. and supplemental security income (“SSI”) benefits under Title XVI of the Social Security Act, 42 U.S.C. § 1381, et seq. Plaintiff’s applications were denied initially. He appealed the denial to an administrative law judge. On September 15, 2006, following a hearing the ALJ rendered a decision finding that plaintiff was not under a disability. Plaintiff requested a review of that decision and on June 13, 2008, the Appeals Council denied plaintiff’s request for review. Thus, the decision of the ALJ stands as the final decision of the Commissioner. The facts and arguments are presented in the parties’ briefs and will not be repeated here.

The Eighth Circuit recently stated the standard for judicial review of an ALJ's denial of benefits:

Our role on review is to determine whether the Commissioner's findings are supported by substantial evidence on the record as a whole. Substantial evidence is less than a preponderance, but is enough that a reasonable mind would find it adequate to support the Commissioner's conclusion. In determining whether existing evidence is substantial, we

consider evidence that detracts from the Commissioner's decision as well as evidence that supports it. As long as substantial evidence in the record supports the Commissioner's decision, we may not reverse it because substantial evidence exists in the record that would have supported a contrary outcome or because we would have decided the case differently.

Baker v. Barnhart, 457 F.3d 882, 892 (8th Cir. 2006), citing, McKinney v. Apfel, 228 F.3d 860, 863 (8th Cir.2000).

The Court has reviewed the parties' briefs, the decision of the ALJ, the transcript of the hearing and the medical and documentary evidence. After this review, the Court finds substantial evidence in the record to support the Commissioner's decision.

Accordingly, it is hereby **ORDERED** that plaintiff's motion to reverse the final decision of the ALJ is hereby **DENIED** (Doc. # 8) and the decision of the Commissioner is hereby **AFFIRMED**.

Date: 12/22/09
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
Chief United States District Judge